THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO.18292 OF 1995

DATED: 10-10-2006

BETWEEN

G. Venkateswarlu, S/o. Ramaiah,
R/o. 15-69(A), Saibabapet,
Nandikotkur, Kurnool District.

...PETITIONER

AND

Chief General Manager, Local Head Office,
State Bank of India, Bank Street, Koti,
Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in seeking to reject his claim for appointment by impugned letter No. (1-0) (PER-C) No. 1840 dated 30.07.1993 on the ground that he became ineligible for appointment by virtue of possessing higher educational qualification as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India and further to declare that he is entitled to be appointed in pursuance of the selection order dated 03.09.1991.

Learned counsel for the petitioner submits that the petitioner studied in a multi-purpose high school up to 12th class but did not pass the same and the said school is now changed into a junior college.

The petitioner studied 10th class during 1967-68, 11th class during 1968-69 and 12th class during 1969-70 and he secured a total of 336 marks with 42%

in the 10th class examination, which was conducted by the school itself. It was neither a common examination nor did any Board conduct it. He further submits that the petitioner joined the respondent bank at Nandikotkur in 1975 as a Messenger on daily wage and he had put around 286 days of service and after completion of 286 days he further continued as Water Boy/Messenger in the same bank. The respondent bank took a decision to consider the claims of the those persons who have worked in its bank and as per the said policy the respondent bank issued a notice to the petitioner to appear for an interview to be held on 18.07.1989. The petitioner attended the interview and the respondent bank after a long time published the list of selected candidates on 03.09.1991 in which the name of the petitioner appeared at Sl.No.1. When the petitioner wanted to join in the job he was not admitted. Thereafter, petitioner made several representations and ultimately the respondent bank issued the impugned letter dated 30.07.1993 pursuant to the representation of the petitioner dated 23.11.1992 and various other representations, stating that the petitioner became ineligible for appointment in subordinate cadre as he possessed higher educational qualification.

The learned counsel further submits that the petitioner also made representations on 05.11.1994 and 05.07.1995 stating that he did not possess higher educational qualification. Even assuming that the pass in 10th class of multipurpose high school is treated to be equivalent to pass in Matriculation the petitioner secured only 42% and the same cannot be treated as higher qualification, as he did not pass in first division in the Matriculation examination. Therefore, the same is not a higher qualification as per the notification of the respondent bank wherein it was stated that a pass in the first or second division in the Matriculation or 10th class is higher qualification. Therefore, the action of the respondent bank in not admitting the petitioner pursuant to the selection list is illegal and arbitrary.

Learned counsel for the petitioner relied on a Division Bench

judgment of this Court in **DISTRICT COLLECTOR, ANANTAPUR & OTHERS v. K. SUJATHA**[1] wherein it has been stated that higher educational qualification is not a disqualification.

Counter has been filed on behalf of the respondents stating that the petitioner passed 10th class in the multipurpose high school and therefore, he acquired higher educational qualification, which is a disqualification. It is further stated that the petitioner worked on temporary basis from 1975 to 1980 as a Messenger for a period of 118 days on full wages, as Watchman for a period of 144 days on full wages, as Sweeper cum Water Boy for a period of 15 days on ¾ wages and as Watchman for a period of 9 days on ¾ wages.

As per the policy of the bank the claims of Ex-temporary employees have been considered and interviews were held in 1989. A panel of suitable candidates was prepared for absorption in the vacancies, which were likely to occur in future and the petitioner was empanelled for appointment in the subordinate cadre. It is further stated that as per the settlement entered by the management of the respondent bank with the union on 17.11.1987 for absorption of the candidates who were engaged on temporary basis, it had been categorically mentioned that a candidate should not have passed Matriculation both at the time of initial temporary appointment or permanent absorption. It is stated that though the petitioner passed XI class by mistake and over sight he was empanelled for absorption even though he possessed higher educational qualification. The prescribed educational qualification for the post of Messenger is a pass in VIII class but not a pass in X class. Therefore, the petitioner is not entitled for absorption. It is further stated that a Division Bench of this Court dismissed a similar W.P.No.13127 of 1988 on 27.09.1995 on the ground that higher educational qualification is a disqualification.

Smt. Uma Devi, learned counsel for the respondents submits that a

Division Bench of this Court in **CH. PAPANNA V. THE PERSONNEL MANAGER, SBI**[2] held that higher educational qualification of a pass in 10th class is a disqualification for the post of Messenger.

In the aforesaid judgment the candidate passed SSC examination and a pass in SSC examination is a higher educational qualification as per the qualification prescribed for the post of Messenger but in the instant case, the qualification prescribed in the notification issued for the appointment of Messenger is as follows:

> "Educational Qualification:
> Candidates should have been non-matriculate on the date of their temporary appointment. Candidates who had passed 8th class but are not matriculate will be considered for Messengerial positions others will be considered for non-Messengerial positions. However, if a candidate has acquired higher educational qualification by passing High School/SSC/Matriculation/other equivalent examination in 2nd or 3rd division only after having ceased to be in the Bank's temporary service he will be deemed eligible for availing the chance provided the higher qualification has not been used by him to secure employment elsewhere."

Admittedly, the petitioner neither passed SSC or Matriculation examination nor secured first division in the 10th class studied in the multipurpose high school. Therefore, I am of the opinion that the aforesaid judgment of the Division Bench has no application to the facts of the instant case, as the petitioner did not possess higher educational qualification. The letter dated 15.04.1993 addressed by the Principal of the Government Junior College, Nandikotkur, Kurnool District to the Deputy General Manager, Personal Section, Zonal Office, Hyderabad, goes to show that on a request of the respondent bank by letter dated 11.02.1993 to furnish the study particulars of the petitioner, the Principal vide his letter stated that the petitioner studied from VI class to XII class in their institution and though he appeared for XII class examination in 1969-70 he was not promoted from XI class to XII class as per records. The word promoted was not written in the

Institution records or in the candidates H.S.C. register but the petitioner appeared the HSC examination in 1970 and failed in the examination. It was also clarified that as per the rules of Board of Intermediate Education XI class student of H.S.C course is not eligible for admission into Intermediate First Year and so, XI class or H.S.C. is not equivalent to present S.S.C.

In view of the aforesaid facts and circumstances of the case, I am of the opinion that the petitioner has not acquired any higher educational qualification and even according to the aforesaid notification the petitioner is eligible for absorption in the subordinate cadre. Therefore, the petitioner was rightly empanelled in the selection list but without any justification he was not given appointment.

Having regard to the facts and circumstances, the writ petition is allowed as prayed for directing the respondents to admit the petitioner to the post of Messenger pursuant to the selection list dated 03.09.1991. There shall be no order as to costs.

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V. ESWARAIAH, J

October 10, 2006
DSK

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[1] 2001 (4) ALD 158 (DB)

[2] 1996 (2) ALT 358 (D.B.)